

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To: <div style="text-align: center; margin-top: 20px;">Kanji NAGATO</div>		<div style="text-align: center; margin-top: 20px;"> PCT WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1) </div>	
Applicant's or agent's file reference FPHH959PC		Date of mailing <i>(day/month/year)</i> 07/09/2004	
International application No. PCT/JP2004/006388		FOR FURTHER ACTION See paragraph 2 below	
International filing date <i>(day/month/year)</i> 12/05/2004	Priority date <i>(day/month/year)</i> 13/05/2003		
International Patent Classification (IPC) or both national classification and IPC <div style="text-align: center;">Int. Cl. ⁷ E02D29/14</div>			
Applicant HINODE, LTD.			

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis. I(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/JP JAPAN PATENT OFFICE	Date of completion of this opinion 17/08/2004	Authorized officer Kazuo SHIBATA
Facsimile No.	Telephone No.	

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International application No.
PCT/JP2004/06388

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☐ the international application in the language in which it was filed
- ☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
- ☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
- ☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed
- ☐ filed together with the international application in electronic form
- ☐ furnished subsequently to this Authority for the purposes of search

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

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Box No. II Priority

1. ☐ The validity of the priority claim has not been considered because the International Searching Authority does not have in its possession a copy of the earlier application whose priority has been claimed or, where required, a translation of that earlier application. This opinion has nevertheless been established on the assumption that the relevant date (Rules 43bis.1 and 64.1) is the claimed priority date.
2. ☒ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Japanese Patent Application No. 2003-134928, which is the earlier application on the basis of which a right of priority is claimed for this international application, is an application filed with respect to the same object in the same country of the Union as Japanese Patent Application No. 2002-36969, which was filed earlier than Japanese Patent Application No. 2003-134928.

Japanese Patent Application No. 2002-36969 is already laid open for public inspection. Hence, Japanese Patent Application No. 2003-134928 is not deemed the first application referred to in Article 4 C(4) of the Paris Convention, and cannot serve as the basis for claiming the right of priority.

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Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	4	YES
	Claims	1 - 3	NO
Inventive step (IS)	Claims		YES
	Claims	1 - 4	NO
Industrial applicability (IA)	Claims	1 - 4	YES
	Claims		NO

2. Citations and explanations:

Document 1: JP 2003-239311A (Hinode, Ltd.), 27.08.2003, full text
and all drawings (family: none)

Document 2: Microfilm recording the specification and drawings
originally annexed to the request of Japanese Utility
Model Application No. 56-89790 (Japanese Utility
Model Application Laid-open Publication No. 57-
202449)

The invention according to claim 1 is disclosed in each of
documents 1 and 2 cited in the International Search Report, and
hence involves neither novelty nor inventive step.

The invention according to claim 2 or 3 is disclosed in document
1 cited in the International Search Report, and hence involves
neither novelty nor inventive step.

The invention according to claim 4 involves no inventive step over
document 1. The angle of inclination is a matter which a person
skilled in the art can set appropriately.

COMMENTS ON WRITTEN OPINION OF INTERNATIONAL SEARCHING AUTHORITY

The opinion of the International Searching Authority states: Application A (JP Appln. No. 2003-134928), on the basis of which a right of priority is claimed for this International Application, is an application filed with respect to the same object in the same country of the Union as Application B (JP Appln. No. 2002-36969), which was filed earlier than Application A; Hence, Application A cannot serve as the basis for claiming the right of priority for this International Application.

However, Application A does not relate to the same object as Application B relates to, and contains the disclosure which Application B does not contain, that is, the feature that "the lower inclined surfaces (11b, 21b) of the cover body (10) and the receiving frame (20) are steeper than the upper inclined surfaces (11a, 21a) of the cover body (10) and the receiving frame (20)". Meanwhile, claim 1 of this International Application contains this feature disclosed in Application A.

Hence, Application A is the first application referred to in Article 4 C(4) of the Paris Convention, and can sufficiently serve as the basis for claiming the right of priority for this International Application.